

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

TARSHA L. BUNCH and RICKY BUNCH,

Plaintiffs,

v.

WAL-MART,

Defendant.

)
)
)
)
)
)
)
)
)
)

CAUSE NO. 1:09-CV-71

OPINION AND ORDER

This matter is before the Court on Defendant Wal-Mart's amended motion to remove misjoined Defendant, Wal-Mart, and substitute Wal-Mart Stores East, LP, as an indispensable party, filed on June 5, 2009. (Docket # 20.) Like the Defendant's original motion, Defendant's amended motion will be DENIED. However, the Court will, once again, grant Defendant an opportunity to amend it.

The Court's Order on the first motion expressed concern that joining Wal-Mart Stores East, LP, could deprive the Court of subject-matter jurisdiction. (Docket # 19.) The Court therefore granted Defendant the opportunity to file an amended motion clarifying the citizenship of the parties.

The amended motion (Docket # 20), however, presents a significant inconsistency with the first motion, and only muddles the Court's inquiry into the entity's citizenship. In the first motion, Defendant traced Wal-Mart Stores East, LP's membership, explaining that it has a general partner and a limited partner, both of which are limited liability companies (LLCs). Defendant then explained that the sole member of both of those LLCs is Wal-Mart Stores East, Inc. (Def. Mot. ¶ 2 (emphasis added).) As explained in the Court's Order, however, Defendant

did not provide the information necessary to establishing Wal-Mart Stores East, Inc.'s citizenship, *i.e.*, its state of incorporation and principal place of business, and thus the Court granted Defendant an opportunity to file an amended motion. (June 4, 2009, Or. 3.)

In the amended motion, Defendant retraced Wal-Mart Stores East, LP's members. This time, however, the amended motion alleges that the sole member of Wal-Mart Stores East, LP's general and limited partners is Wal-Mart Stores East, *LP*, (which is, oddly enough, the name of the entity Defendant wishes to join), and *not* Wal-Mart Stores East, *Inc.*, as stated in the prior motion. (Def. Am. Mot. ¶ 2.) The Defendant, therefore, must clarify this inconsistency because as it stands, the Defendant still has not properly articulated the citizenship of the entity it wishes to join in this case.

Moreover, the Court also noted in its Order that the Defendant's Notice of Removal did not clearly specify the citizenship of both of the Plaintiffs, and asked the Defendant to also confirm its allegations concerning their citizenship. (June 4, 2009, Or. 2, n.1.) Defendant's amended motion, however, fails to do so. Consequently, the Defendant should also address this point in its second amended motion.

Accordingly, Defendant's amended motion to remove misjoined defendant and substitute Wal-Mart Stores East, LP (Docket # 20) is DENIED. Defendant, however, may file a second amended motion clarifying the citizenship of each of the parties.

SO ORDERED.

Enter for this 5th day of June, 2009.

/S/ Roger B. Cosbey
Roger B. Cosbey,
United States Magistrate Judge